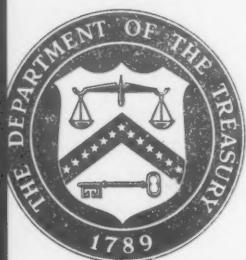


Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Customs and
Patent Appeals and the United States
Customs Court

Vol. 12

FEBRUARY 15, 1978

No. 7

This issue contains

T.D. 78-35 through 78-46

C.D. 4729 and 4730

Protest abstract P78/7

Reap. abstracts R78/16 through R78/19

DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

The abstracts, rulings, and notices which are issued weekly by the U.S. Customs Service are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Logistics Management Division, Washington, D.C. 20229, of any such errors in order that corrections may be made before the bound volumes are published.

U.S. Customs Service

Treasury Decisions

(T.D. 78-35)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, People's Republic of China yuan, Philippines peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 19, 1978.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:

January 9, 1978.....	\$0. 2167
January 10, 1978.....	. 2167
January 11, 1978.....	. 2167
January 12, 1978.....	. 2170
January 13, 1978.....	. 2167

Iran rial:

January 9-13, 1978.....	\$0. 0140
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People's Republic of China yuan:

January 9, 1978.....	Not Available
January 10, 1978.....	\$0. 5785
January 11, 1978.....	. 5785
January 12, 1978.....	. 5855
January 13, 1978.....	. 5855

Philippines peso:

January 9-13, 1978.....	\$0. 1350
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U.S. Customs Service

Form 100

1963 Edition

Instructions for the use of this form are given on the back of the form.

This form is to be used by the U.S. Customs Service to collect duties and taxes on imported goods.

The form is divided into two main sections: Part I, which contains the information required for the collection of duties and taxes, and Part II, which contains the information required for the collection of duties and taxes on goods imported from certain countries.

Part I is divided into two sub-sections: Section 1, which contains the information required for the collection of duties and taxes on goods imported from all countries, and Section 2, which contains the information required for the collection of duties and taxes on goods imported from certain countries.

Part II is divided into two sub-sections: Section 1, which contains the information required for the collection of duties and taxes on goods imported from certain countries, and Section 2, which contains the information required for the collection of duties and taxes on goods imported from certain countries.

The form is to be filled out by the importer or the importer's agent, and it must be submitted to the U.S. Customs Service at the time of importation.

The form is to be filled out in duplicate, and the original copy must be submitted to the U.S. Customs Service, while the duplicate copy must be retained by the importer or the importer's agent.

The form is to be filled out in accordance with the instructions given on the back of the form, and it must be filled out in accordance with the regulations of the U.S. Customs Service.

The form is to be filled out in accordance with the instructions given on the back of the form, and it must be filled out in accordance with the regulations of the U.S. Customs Service.

The form is to be filled out in accordance with the instructions given on the back of the form, and it must be filled out in accordance with the regulations of the U.S. Customs Service.

The form is to be filled out in accordance with the instructions given on the back of the form, and it must be filled out in accordance with the regulations of the U.S. Customs Service.

Singapore dollar:

January 9, 1978.....	\$0. 4256
January 10, 1978.....	. 4262
January 11, 1978.....	. 4282
January 12, 1978.....	. 4300
January 13, 1978.....	. 4276

Thailand baht (tical):

January 9-13, 1978.....	\$0. 0490
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(LIQ-3)

JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

(T.D. 78-36)

Inspection, Search, and Seizure—Customs Regulations amended

Section 162.32, Customs Regulations, relating to filing of petitions for relief under the Customs laws, amended

DEPARTMENT OF THE TREASURY,
 OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 162 — INSPECTION, SEARCH, AND SEIZURE

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This rule expands a district director's authority to grant an extension of time for filing a petition for relief from a fine, penalty, or forfeiture arising under the Customs or navigation laws. The regulations prescribe a 60-day period for filing a petition, with limited authority for a district director to extend the period if the person who is liable for a fine or penalty, or who has an interest in the property subject to forfeiture, is abroad or was abroad for 30 days or more of the filing period. By permitting the district director to extend the filing period for other good reasons of which he is aware, this rule continues the Customs policy of delegating decision-

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making authority to the level at which it can be most effectively exercised.

EFFECTIVE DATE: February 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Marilyn Morrison, Entry Procedures and Penalties Division,
United States Customs Service, 1301 Constitution Avenue NW.,
Washington, D.C. 20029 (202-566-5746).

SUPPLEMENTARY INFORMATION:

BACKGROUND

In pertinent part, section 162.32(a) of the Customs Regulations (19 CFR 162.32(a)) requires a person who is liable for a fine or penalty, or who has an interest in property subject to forfeiture, for any violation of the Customs or navigation laws to file a petition for relief within 60 days from the date that the notice of penalty is mailed. However, a district director may grant an extension of time for filing the petition if the person is outside the United States or was outside the United States for 30 days or more during the filing period. If a petition is not filed within the 60-day period, the district director must refer the case to the United States attorney for the start of collection proceedings unless the Commissioner of Customs authorizes other action.

Because of the present limitations on a district director's authority to grant an extension of time for filing a petition, a request for such an extension usually must be referred to the Commissioner of Customs for decision, even though the district director is often in the best position to determine whether an extension of time is justified. Accordingly, section 162.32(a) of the Customs Regulations is being amended to increase the authority of a district director with respect to extensions of the filing period for petitions for relief. This amendment, which specifies additional situations in which a district director may act on a request for an extension of the filing period, does not affect the present authority of the Commissioner to grant an extension or to take any other action on a case.

DRAFTING INFORMATION

The principal author of the document is William G. Rosoff, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

AMENDMENT TO THE REGULATIONS

This amendment is considered to be exempt from the notice requirements of 5 U.S.C. 553 because it solely concerns agency procedure.

Accordingly, section 162.32(a) of the Customs Regulations (19 CFR 162.32(a)) is amended to read as follows:

PART 162 - INSPECTION, SEARCH, AND SEIZURE

§ 162.32 Where petition for relief not filed.

(a) *Fines, penalties, and forfeitures.* If the person who is liable for a fine or penalty, or who has an interest in property subject to forfeiture, for any violation of the Customs or navigation laws fails to petition for relief in accordance with Part 171 of this chapter, or to pay or to arrange to pay the fine or penalty within 60 days from the date of mailing of the notice of violation as provided in section 162.31, the district director shall immediately refer the case to the U.S. attorney for judicial action unless the Commissioner of Customs expressly authorizes other action with respect to the case. However, if there is at least one year before the statute of limitations may be asserted as a defense, a district director may extend the time for filing a petition, upon the request of the person who is liable for a fine or penalty, or who has an interest in property subject to forfeiture, in the following situations:

1. The person is seriously ill or is otherwise incapacitated and is unable to prepare or to assist in the preparation of a petition.
2. The person is absent from the United States or was absent from the United States for 30 days or more during the 60-day filing period.
3. Necessary evidence or a necessary witness is not available through no fault of the person.
4. The cases involves a complex legal or factual problem other than a classification, appraisalment, or similar issue. Examples of the type of problem intended to be covered by this category are the need to examine voluminous records to learn the facts on which to base a petition or the need to determine legal responsibilities in a case involving numerous parties or numerous violations.
5. The existence of unusual circumstances, such as a fire or other disaster, affecting the business of the person which requires the full attention of that person in order to overcome the effects of the unusual circumstances.
6. Any other situation in which the district director determines that an extension of time for filing a petition is justified.

* * * * *

(R.S. 251, as amended; sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))
(ADM-9-03)

G. R. DICKERSON,
Acting Commissioner of Customs.

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Approved January 18, 1978:

BETTE B. ANDERSON,

Under Secretary of the Treasury.

[Published in the FEDERAL REGISTER February 3, 1978 (43 FR 4595)]

(T.D. 78-37)

C.D. 4687 Limited

This notice limits the decision in C.D. 4687, decided January 31, 1977, holding that certain parts of shoes (uppers) were classifiable under the provision for articles not specially provided for, of rubber or plastics, in item 774.60, TSUS

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 27, 1978.

In *The Westminster Corp. v. United States*, C.D. 4687, decided January 31, 1977, the United States Customs Court held that shoe uppers in chief value of plastics material were classifiable under the provision for articles not specially provided for, of rubber or plastics, in item 774.60, Tariff Schedules of the United States.

The United States Customs Service has decided to limit the application in C.D. 4687 to shoe uppers and other parts of shoes.

G. R. DICKERSON,
Acting Commissioner of Customs.

(T.D. 78-38)

*Inspection, Search, and Seizure; Fines, Penalties, and Forfeitures—
Customs Regulations amended*

Sections 162.31 and 171.1, Customs Regulations, pertaining to notices of fine, penalty, or forfeiture incurred, and to prepenalty notices, amended

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 162 - INSPECTION, SEARCH, AND SEIZURE

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PART 171 - FINES, PENALTIES, AND FORFEITURES

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations to provide that certain specified information shall be set forth in notices of fine, penalty, or forfeiture incurred and in prepenalty notices which are issued by the Customs Service. Notices occasionally have been unclear because of a lack of specific information as to the alleged violations on which liability is based. The purpose of this amendment is to enable the notified parties to make an informed response to the notices.

EFFECTIVE DATE: March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard M. Belanger, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 162.31(a) of the Customs Regulations (19 CFR 162.31(a)) provides that written notice of any fine or penalty incurred, as well as of any liability to forfeiture, shall be given to each party that the facts of record indicate has an interest in the claim or seized property. The notice shall also inform each interested party of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), or any other applicable statute authorizing remission or mitigation of penalties, or remission of forfeitures, in accordance with Part 171 of the Customs Regulations (19 CFR Part 171). One purpose of the notice of fine, penalty, or forfeiture is to give interested parties the opportunity to petition for relief.

Section 171.1(b) of the Customs Regulations (19 CFR 171.1(b)) provides that prior to the issuance of a claim for forfeiture value in excess of \$25,000 for violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), with respect to the entry, or attempted entry, of merchandise, the district director shall give a written notice to the specified party of his intention to issue such a claim. The notice shall contain a description of the merchandise and shall set forth the circumstances of entry or attempted entry, specifying the provisions of law alleged to have been violated and describing the acts or omissions on which the liability is based. The purpose of the prepenalty notice procedure is to give parties against whom Customs intends to

issue a claim for forfeiture value for violation of 19 U.S.C. 1592 an opportunity to respond to the allegations prior to the issuance of the claim.

In order that parties might properly present their reasons why a claim for forfeiture value should not be issued for an alleged violation of 19 U.S.C. 1592, or why relief should be granted from any fine, penalty, or forfeiture incurred, it is desirable to specify the contents of the prepenalty notice and of the notice of fine, penalty, or forfeiture. Accordingly, both notices will contain the provisions of law alleged to have been violated and a description of the specific acts or omissions forming the basis of the alleged violations. If the alleged violations involve the entry or attempted entry of merchandise, both notices will also contain a description of the merchandise, the circumstances of entry or attempted entry, and the identity of each entry. In addition, if the alleged violations involve a loss of revenue, both notices will contain the total loss of revenue and how it was computed. The notices will also contain the loss of revenue attributable to each entry, if it is readily susceptible to calculation.

Inasmuch as these amendments benefit the public by providing specific information necessary to enable a party to respond to actions taken by the Customs Service, notice and public procedure thereon is found to be unnecessary.

DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

AMENDMENTS TO THE REGULATIONS

Parts 162 and 171 of the Customs Regulations (19 CFR Parts 162, 171) are amended in the following manner:

PART 162 - INSPECTION, SEARCH, AND SEIZURE

Section 162.31 is amended by redesignating present paragraph (b) as paragraph (c), and by adding a new paragraph (b) to read as follows:

§ 162.31 Notice of fine, penalty, or forfeiture incurred.

* * * * *

(b) *Contents of notice.* The notice shall contain the following:

- (1) The provisions of law alleged to have been violated;

(2) A description of the specific acts or omissions forming the basis of the alleged violations;

(3) If the alleged violations involve the entry or attempted entry of merchandise,

(i) A description of the merchandise and the circumstances of its entry or attempted entry, and

(ii) The identity of each entry, if specific entries are involved; and

(4) If the alleged violations involve a loss of revenue,

(i) The total loss of revenue and how it was computed, and

(ii) The loss of revenue attributable to each entry, if readily susceptible to calculation.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 171 - FINES, PENALTIES AND FORFEITURES

The second sentence of paragraph (b)(1) of section 171.1 is amended to read as follows:

§ 171.1 Special procedures for certain liabilities incurred under section 592, Tariff Act of 1930, as amended.

* * * * *

(b) *Prepenalty notice procedure.*

(1) *Issuance of prepenalty notice.* * * * The notice shall set forth the information required by section 162.31(b) of this chapter. * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

(ADM-9-03)

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved January 18, 1978:

BETTE B. ANDERSON,

Under Secretary of the Treasury.

[Published in the FEDERAL REGISTER February 1, 1978 (43 FR 4255)]

(T.D. 78-39)

Man-made Fiber Textile Products—Restriction on Entry

Restriction on entry of man-made fiber textile products manufactured or produced in the Philippines

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 30, 1978.

There is published below a directive of December 1, 1977, received by the Commissioner of Customs from the Acting Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of man-made fiber textile products in category 214 manufactured or produced in the Philippines. This directive further amends, but does not cancel, that Committee's directive of September 22, 1976 (T.D. 76-297).

This directive was published in the FEDERAL REGISTER on December 7, 1977 (42 FR 61885), by the Committee.

(QUO-2-1)

JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Domestic
and International Business
Washington, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

December 1, 1977.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

On September 22, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977, of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of the Philippines, and exported to the United States, in excess of designated levels of restraint. The directive of September 22, 1976 was amended on August 5, 1977 to increase

the previously established level of restraint in accordance with a three-month extension of the agreement, through December 31, 1977. The Chairman advised you that the levels of restraint are subject to adjustment.¹

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 9(b) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed, effective on December 1, 1977 to amend the level of restraint established for cotton textile products in Category 214 to 1,437,767 dozen pairs.²

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL

*Acting Chairman, Committee for the
Implementation of Textile Agreements*

(T.D. 78-40)

Cotton and Man-made Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton and man-made fiber textile products manufactured
or produced in Haiti

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C. January 30, 1978.

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by specified percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments, and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

² The level of restraint has not been adjusted to reflect any entries made after September 30, 1976.

There is published below a directive of December 12, 1977, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton and man-made fiber textile products in certain categories manufactured or produced in Haiti. This directive further amends that Committee's directive of December 27, 1976 (T.D. 77-48); and cancels another directive dated August 24, 1977 (T.D. 77-217).

This directive was published in the *FEDERAL REGISTER* on December 15, 1977 (42 FR 63199), by the Committee.

(QUO-2-1)

JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Domestic
and International Business
Washington, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

December 12, 1977.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

This directive further amends, but does not cancel, the directive issued to you on December 27, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain specified categories of cotton and man-made fiber textile products. The directive of August 16, 1977 is hereby cancelled.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22 and 23, 1976, as amended, between the Governments of the United States and Haiti, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on December 13, 1977 and for the twelve-month period which began on January 1, 1977 and extends through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 50, 51, 53, 54, and 55, and man-made fiber textile products in

Categories 215, 223, and 238 in excess of the following levels of restraint:

<i>Category</i>	<i>Amended Twelve-Month Level of Restraint</i> ¹
50	112, 378 dozen
51	112, 378 dozen
53	33, 113 dozen
54	80, 000 dozen
55	39, 216 dozen
215	1, 304, 348 dozen pairs
222	165, 786 dozen
223	187, 500 dozen
238	393, 258 dozen

¹ The levels of restraint have not been adjusted to reflect any imports after December 31, 1976.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *FEDERAL REGISTER*.

Sincerely,

EDWARD GOTTFRIED

*Acting Chairman, Committee for the
Implementation of Textile Agreements*

(T.D. 78-41)

Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of manmade fiber textile products manufactured or produced in the Philippines

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 30, 1978.

There is published below a directive of December 15, 1977, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of manmade fiber textile products in category 214 manufactured or produced in the Philippines. This directive further amends, but does not cancel, that Committee's directive of September 22, 1976 (T.D. 76-297).

This directive was published in the FEDERAL REGISTER on December 20, 1977 (42 FR 63809), by the Committee.

(QUO-2-1)

JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Domestic
and International Business
Washington, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

December 15, 1977.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

On September 22, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977, of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Republic of the Philippines, and exported to the United States, in excess of designated levels of restraint. The directive of September 22, 1976 was amended on August 5, 1977 to increase the previously established level of restraint in accordance with a three-month extension of the agreement, through December 31, 1977. The Chairman advised you that the levels of restraint are subject to adjustment.¹

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 7(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed, effective on December 15, 1977, to

¹ The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 15, 1975, as amended, between the Governments of the United States and the Republic of the Philippines which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (2) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

amend the level of restraint established for man-made fiber textile products in Category 214 to 1,600,346 dozen pairs.²

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *FEDERAL REGISTER*.

Sincerely,

EDWARD GOTTFRIED
*Acting Chairman, Committee for the
Implementation of Textile Agreements*

(T.D. 78-42)

Reimbursable Services—Excess Cost of Preclearance Operations

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 30, 1978.

Notice is hereby given that pursuant to section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning February 26, 1978.

<i>Installation</i>	<i>Biweekly excess cost</i>
Montreal, Canada.....	\$11, 993. 00
Toronto, Canada.....	22, 314. 00
Kindley Field, Bermuda.....	4, 216. 00
Freeport, Bahama Islands.....	19, 106. 00
Nassau, Bahama Islands.....	13, 371. 00
Vancouver, Canada.....	6, 860. 00
Winnipeg, Canada.....	1, 507. 00

(FIS-9-05)

NANCY C. GARRETT,
*Acting Assistant Commissioner,
Administration.*

[Published in the *FEDERAL REGISTER* February 6, 1978 (43 FR 4893)]

² The level of restraint has not been adjusted to reflect any entries made after September 30, 1976.

(T.D. 78-43)

Bonds

Approval and discontinuance of Carrier bonds, Customs Form 3587

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 31, 1978.

Bonds of carriers for the transportation of bonded merchandise have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
A & M Trucking Service, Inc., 1550 W. 20th St., Hialeah Lakes, FL; motor carrier, Sentry Indemnity Co.	Apr. 4, 1977	Apr. 29, 1977	Miami, FL; \$25,000
Aero Trucking Inc., P.O. Box 308, Monroeville, PA; motor carrier, The Aetna Casualty & Surety Co.	Feb. 9, 1977	May 23, 1977	Pittsburgh, PA; \$25,000
Asbestos Eastern Transport (US) Inc., Morrisonville Rd., Plattsburgh, NY; motor carrier, The Hanover Ins. Co. (PB 4/11/73) D 5/12/77 ¹	Apr. 11, 1977	May 12, 1977	Ogdensburg, NY; \$25,000
Atlantis Transportation Service Ltd., 371 Marwood Dr., Oshawa, Ontario, Canada; motor carrier, The Travelers Indemnity Co.	July 14, 1976	Apr. 6, 1977	Buffalo, NY; \$25,000
Badger Freightways Inc., P.O. Box 528, Sheboygan, WI; motor carrier, St. Paul Fire & Marine Ins., Co. (PB 4/15/75) D 4/20/77 ²	Apr. 21, 1977	Apr. 26, 1977	Milwaukee, WI; \$25,000
Beausvais Ltee, 27 St. Louis St., St. Lambert, Quebec, Canada; motor carrier, The Hanover Ins. Co. (PB 6/26/69) D 6/26/77 ³	June 26, 1977	June 8, 1977	Ogdensburg, NY; \$25,000
Bestway Transport, Inc., P.O. Box 5271, Baltimore, MD; motor carrier, Fidelity & Deposit Co. of MD	Feb. 3, 1977	Feb. 4, 1977	Baltimore, MD; \$25,000
Brooklyn Eastern District Terminal, 86 Kent Ave., Brooklyn, NY; rail carrier, The Travelers Indemnity Co. D 7/26/77	Feb. 22, 1972	Feb. 22, 1972	New York Seaport \$100,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director/amount
Citrus Sales, Inc., 3850 Lake Alfred Rd., Winter Haven, FL; motor carrier, St. Paul Fire & Marine Ins. Co. D 7/27/76	Aug. 1, 1975	Aug. 4, 1975	Tampa, FL; \$25,000
Coastal Towing, Inc., Springhill, 7700 Brainiff, Houston, TX; water carrier, Trinity Universal Ins. Co.	July 15, 1977	July 15, 1977	Houston, TX; \$50,000
Evans Delivery Company, Inc., P.O. Box 268, Rte. #61, Pottsville, PA; motor carrier, The Ohio Casualty Ins. Co. D 8/12/77	Apr. 10, 1975	Apr. 21, 1975	Philadelphia, PA; \$50,000
J. E. Fortin Transport Inc., Lacolle, Quebec, Canada; motor carrier, Hanover Ins. Co. (PB 6/26/69) D 4/27/77 4	June 26, 1977	Apr. 27, 1977	Ogdensburg, NY; \$25,000
Franks & Son, Inc., Rte. 1, Box 108 A, Big Cabin, OK; motor carrier, Continental Casualty Co. (PB 2/16/76) D 3/11/77 5	Feb. 23, 1977	Mar. 11, 1977	Nogales, AZ; \$25,000
Gerald Transport Chambly, Inc., Chambly, Quebec, Canada; motor carrier, Hanover Ins. Co. (PB 5/30/75) D 3/21/77 6	May 30, 1977	Mar. 21, 1977	Ogdensburg, NY; \$25,000
Gulf Coast Maritime Supply, Inc., 7118 Harrisburg, Houston, TX; motor carrier, Fidelity & Deposit (PB 11/12/73) D 7/1/77 7	June 30, 1977	July 1, 1977	Houston, TX; \$25,000
Gulf Transport Ltd., 16 Exhibition Dr., P.O. Box 1507, Charlottetown, P.E.I., Canada; motor carrier, Peerless Ins. Co.	May 15, 1977	July 21, 1977	Portland, ME; \$25,000
Howard Hattry, Inc., 301 West "B" St., Wilmington, CA; motor carrier, Fidelity & Deposit Co. of MD (PB 7/1/71) D 7/7/77 8	June 10, 1977	July 8, 1977	Los Angeles, CA; \$50,000
Home Pack Transport, Inc., 57-48 49th St., Maspeth, NY; air freight forwarder, American Motorists Ins. Co.	June 10, 1977	June 29, 1977	J.F.K. Airport; \$50,000
Inland Transportation Co., Inc., 6737 Corson Ave., South, Seattle, WA; motor carrier, Firemen's Ins. Co. of Newrk, NJ.	Jan. 22, 1975	Jan. 24, 1975	Seattle, WA; \$25,000
Interboro Trucking Co., Inc., P.O. Box 569, Metuchen, NJ; motor carrier, Firman's Fund Ins. Co.	May 20, 1977	May 20, 1977	New York Sea- port; \$50,000
Pat Izzi Trucking Co., 80 Wayland Ave., Cranston, RI; motor carrier, The Home Indemnity Co.	May 19, 1977	May 31, 1977	Providence, RI; \$25,000
King Delivery, Inc., 5600 W. Arbor Vitae St., Los Angeles, CA; motor carrier, Washington International Ins. Co.	May 20, 1977	June 2, 1977	Los Angeles, CA; \$50,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/ area director; amount
Lague Express Inc., Farnham, Quebec, Canada; motor carrier, The Hanover Ins. Co. (PB 7/2/69) D 7/2/77. ⁹	July 2, 1977	June 8, 1977	Ogdensburg, NY; \$25,000
Lavery Transportation, Inc., 4211 Shirley Lane, Alsip, IL; motor carrier, Hartford Accident & Indemnity Co. (PB 4/23/65) D 7/27/77. ¹⁰	June 2, 1977	July 27, 1977	Chicago, IL; \$30,000
"Los Vaqueros" Cooperativa Transporte de Carga, Edificio D, Mercado Central, Puerto Nuevo, PR; motor carrier, Puerto Rican-American Ins. Co.	July 14, 1977	July 14, 1977	San Juan, PR; \$25,000
M. C. Trucking Co., 1373 Broad St., Clifton, NJ; motor carrier, Peerless Ins. Co.	Apr. 29, 1977	May 25, 1977	Newark, NJ; \$50,000
MCO Transport, Inc. (A NC Corp.), P.O. Box 611, Wilmington, NC; motor carrier, Fidelity & Desposit Co. of MD	Apr. 5, 1977	May 5, 1977	Wilmington, NC; \$50,000
Major Van Lines, 60 Jacobus Ave., So. Kearny, NJ; motor carrier, Peerless Ins. Co.	Aug. 2, 1976	May 23, 1977	Newark, NJ; \$50,000
Matlack Inc., 10 West Baltimore Ave., Lansdowne, PA; motor carrier, Protective Ins. Co.	June 1, 1977	June 28, 1977	Philadelphia, PA; \$50,000
Mercer Brothers Trucking Co., P.O. Box 952, Wilson, NC; motor carrier, U.S. Fidelity & Guaranty Co., a MD Corp.	Mar. 4, 1977	Mar. 21, 1977	Wilmington, NC; \$25,000
Murphy Sur-Air Trucking Co., Inc., Blue Grass Field, Versailles Rd., Lexington, KY; motor carrier, Fireman's Fund Ins. Co.	Feb. 17, 1977	May 20, 1977	Cleveland, OH; \$35,000
Miles Motor Transport System, P.O. Box 24213, Shed A, Ft. of Grove, Oakland, CA; motor carrier, Aetna Ins. Co. (PB 6/1/72) D 6/20/77. ¹¹	June 1, 1977	July 6, 1977	San Francisco, CA; \$50,000
National Railroad Passenger Corp., 955 L'Enfant Plaza North, S.W., Washington, D.C.; rail carrier, The Aetna Casualty and Surety Corp. (PB 9/21/76) D 7/14/77. ¹²	Sept. 21, 1977	July 14, 1977	St. Albans, VT; \$50,000
Northern Industrial Carriers, Ltd., Highway 14 East 34th St., Edmonton, Alberta; motor carrier, Trans-america Ins. Co.	May 5, 1977	May 31, 1977	Great Falls, MT; \$25,000
Osborne West, Ltd., P.O. Box 2329, Dublin, CA; motor carrier, Transport Indemnity Co. (PB 6/11/76) D 7/12/77	June 15, 1977	July 12, 1977	San Francisco, CA; \$25,000
Pan American Van Lines, Inc., 18420 South Santa Fe Ave., Long Beach, CA; motor carrier, Peerless Ins. Co.	Jan. 5, 1977	July 1, 1977	Los Angeles, CA; \$50,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/ area director; amount
Profit-By-Air, Inc., P.O. Box 647, Jamaica, NY; air freight forwarder, Ins. Co. of North America (PB 10/18/74) D 1/21/76	Dec. 15, 1976	Jan. 21, 1977	J.F.K. Airport; \$25,000
Prudential Lines, Inc., 1 World Trade Center, New York, NY; water carrier, Federal Ins. Co.	June 14, 1977	June 27, 1977	Philadelphia, PA; \$50,000
Reddaway's Truck Line, Inc., 1721 N.W. Northrup, Portland, OR; motor carrier, Mid-Century Ins. Co.	July 22, 1977	July 25, 1977	Portland, OR; \$25,000
Rozay's Transfer, 2315 Nadeau St., Huntington Park, CA; motor carrier, Fireman's Fund Ins. Co. (PB 7/11/74) D 5/12/77	Feb. 24, 1977	May 13, 1977	Los Angeles, CA; \$50,000
Sedalia, Marshall, Boonville Stage Line Inc., 5805 Fleur Dr., Des Moines, IA; motor carrier, Employers Mutual Casualty Co.	Feb. 22, 1977	Mar. 24, 1977	Chicago, IL; \$50,000
Southwestern Motor Transport, Inc., 4600 Goldfield, San Antonio, TX; motor carrier, Fidelity & Deposit Co. (PB 3/2/73) D 4/12/77 ¹³	Mar. 2, 1977	Apr. 12, 1977	Laredo, TX; \$25,000
Specialized Trucking, Inc., 4714 Elysian, Houston, TX; motor carrier, St. Paul Fire & Marine Ins. Co.	Jan. 17, 1977	May 23, 1977	Houston, TX; \$50,000
H. L. Stansell, Inc., 1015 Illinois Ave., Palm Harbor, FL; motor carrier, The Continental Ins. Co. of Columbus, OH	Mar. 31, 1977	June 16, 1977	Tampa, FL; \$25,000
Transload & Transport, Inc., P.O. Box 1874, Morgan City, LA; water carrier, St. Paul Fire & Marine Ins. Co.	June 10, 1977	June 15, 1977	New Orleans, LA; \$50,000
Walsh Trucking Service, Inc., Massena, NY; motor carrier, The Hanover Ins. Co. (PB 7/28/60) D 7/28/77 ¹⁴	July 28, 1977	July 21, 1977	Ogdensburg, NY; \$25,000
Webb's Transfer, Inc., County and Johnson Sts., Suffolk, VA; motor carrier, Fidelity & Deposit Co. of MD (PB 5/28/68) D 7/26/77 ¹⁵	July 25, 1977	July 26, 1977	Norfolk, VA; \$25,000
West Brothers Transfer & Storage, Inc., P.O. Box 6365, Raleigh, NC; motor carrier, The North River Ins. Co.	Dec. 20, 1976	Mar. 3, 1977	Wilmington, NC; \$25,000
Western Container Transport, Inc., 8101 N.E. 14th Place, Portland, OR; motor carrier, Peerless Ins. Co.	Apr. 5, 1977	July 25, 1977	Portland, OR; \$25,000
Western Gillette, Inc., 1677 Gorge Blvd., P.O. Box 471, Akron, OH; motor carrier, Protective Ins. Co. (PB 9/13/68) D 5/12/77 ¹⁶	Feb. 17, 1977	May 13, 1977	Los Angeles, CA; \$50,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
J. J. Willis Trucking Co., P.O. Box 2112, Odessa, TX; motor carrier, Reliance Ins. Co.	Feb. 27, 1977	Feb. 27, 1977	El Paso, TX; \$25,000
D. Q. Wise & Co., Inc., 13309 E. Apache St., Tulsa, OK; motor carrier, Mid-Century Ins. Co.	May 19, 1977	June 21, 1977	Houston, TX; \$25,000

¹ Surety is St. Paul Fire & Marine Ins. Co.

² Surety is Aetna Ins. Co.

³ Surety is Fidelity & Deposit Co. of MD.

⁴ Surety is Fidelity & Deposit Co. of MD.

⁵ Surety is The Aetna Casualty & Surety Co.

⁶ Surety is St. Paul Fire & Marine Ins. Co.

⁷ Surety is American Indemnity Co.

⁸ Surety is Maryland Casualty Co.

⁹ Surety is Fidelity & Deposit Co. of MD.

¹⁰ Surety is The Home Indemnity Co.

¹¹ Surety is Hartford Accident & Indemnity Co.

¹² Surety is National Home Assurance Co.

¹³ Surety is Maryland American General Ins. Co.

¹⁴ Surety is Fidelity & Deposit Co. of MD.

¹⁵ Surety is Hartford Accident & Indemnity Co.

¹⁶ Surety is Transport Indemnity Co.

(BON-3-03)

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

(T.D. 78-44)

Bonds

Approval and discontinuance of bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 31, 1978.

Bonds on Customs Form 7587 for the control of instruments of international traffic of a kind specified in section 10.41a of the Customs Regulations have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by figures in parenthesis immediately following which has

been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of list.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/ area director; amount
Aeone Foods Specialties, Inc., A Calif. Corp. 4720 Firestone Blvd., S. Gate, CA; St. Paul Fire & Marine Ins. Co. D 6/7/77	Feb. 10, 1971	Feb. 11, 1971	Los Angeles, CA; \$10,000
Advanced Structures & Technology Co., Div. of Tool Research & Engineering Corp., 3030 Red Hill Ave., Santa Ana, CA; St. Paul Fire & Marine Ins. Co. (PB 12/12/72) D 6/6/77	May 25, 1977	June 7, 1977	Los Angeles, CA; \$50,000
Alumina Partners of Jamaica, 100 W. 10th St., Wilmington, DE; Ins. Co. of North America	Dec. 6, 1976	May 2, 1977	New Orleans, LA; \$10,000
Ambassador Import Co., Frederick Andrew Nielsen, d/b/a an individual, 1929 S. Hooper Ave., Los Angeles, CA; St. Paul Fire & Marine Ins. Co. D 6/8/77	June 15, 1966	June 15, 1966	Los Angeles, CA; \$10,000
Victor Ambrose Barry d/b/a V.A. Barry Co., 1874 E. 22nd St., Los Angeles, CA; St. Paul Fire & Marine Ins. Co. D 6/8/77	Aug. 3, 1970	Aug. 3, 1970	Los Angeles, CA; \$10,000
Anchor Shipping Corp., 20575 Center Ridge Road, Cleveland, OH; St. Paul Fire & Marine Ins. Co. D 7/27/77	May 11, 1973	May 16, 1973	Cleveland, OH; \$20,000
Balfour Guthrie & Co., Ltd., P.O. Box 7913, San Francisco, CA; St. Paul Fire & Marine Ins., Co. (PB 4/11/60) D 6/8/77	May 27, 1977	June 9, 1977	Los Angeles, CA; \$50,000
Borinquen Lines, Inc., P.O. Box 5185, San Juan, PR; Safeco Ins. Co. of America D 5/18/77	Mar. 13, 1976	Mar. 13, 1976	San Juan, PR; \$25,000
Burns Bros., Inc., (NY Corp.) (Including its div. Eller & Co. & Port Everglades Terminal Co.); 222 Varick St., Brooklyn, NY; Federal Ins. Co. D 7/1/77	July 26, 1972	Aug. 3, 1972	Miami, FL; \$10,000
C T M T Inc., c/o Trailer Marine Transport Corp., Box 3921, San Juan, PR; American Ins. Co. (PB 5/13/76) D 5/12/77 ¹	May 13, 1977	May 13, 1977	San Juan, PR; \$50,000
Caribbean Cement Carriers Corp., Chase Manhattan Bank Building, Hato Rey, PR; Peerless Ins. Co. (PB 3/4/68) D 3/14/77 ²	Mar. 15, 1977	Mar. 15, 1977	San Juan, PR; \$10,000
Chateau Distributors International, Inc., 497 W. 147th St., Hawthorne, CA; St. Paul Fire & Marine Ins. Co. D 6/8/77	Nov. 28, 1973	Nov. 30, 1973	Los Angeles, CA; \$10,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
CTI-Container Transport International, Inc., 1 North Broadway, White Plains, NY; American Motorists Ins. Co. (PB 5/14/73) D 5/14/77 ³	May 14, 1977	May 17, 1977	New York Seaport; \$10,000
Eller & Co., Inc. (A FL Corp.) (and its subsidiaries: Blue Star Shipping Corp., & St. Mary's Stevedoring Corp.), 701 South East 24th St., Ft. Lauderdale, FL; Peerless Ins. Co.	June 24, 1977	July 1, 1977	Miami, FL; \$10,000
L. Fatato, Inc., 314-18 Second St., Brooklyn, NY; American Motorists Ins. Co.	May 20, 1977	May 20, 1977	New York Seaport; \$10,000
Fiberter Trading Co., (A NC Corp.), P.O. Box 75047, Charlotte, NC; Peerless Ins. Co.	June 22, 1977	June 23, 1977	Norfolk, VA; \$10,000
Forex Chemical Corp., 13 Sunflower Ave., P.O.B. 159, Paramus, NJ; Federal Ins. Co.	July 26, 1977	July 27, 1977	New York Seaport; \$10,000
G.E. Sales Corp., 50 East 42nd St., New York, NY; St. Paul Fire & Marine Ins. Co. D 7/1/77	Feb. 1964	Feb. 14, 1964	Portland, ME; \$10,000
Gas Products Corp. #306 Ponce de Leon Ave., Hato Rey, PR; Puerto Rican American Ins. Co. (PB 6/24/68) D 6/23/77 ⁴	June 24, 1977	June 24, 1977	San Juan, PR; \$10,000
Hario-Air Cargo Brokers, Inc. (NY Corp.), 52 Broadway, New York, NY; Peerless Ins. Co. D 5/19/77	Aug. 10, 1972	Aug. 14, 1972	New York Seaport; \$10,000
Hereofina, 910 Market St., Wilmington, DE; Seaboard Surety Co.	Apr. 1, 1977	May 16, 1977	Norfolk, VA; \$10,000
Japan Line (U.S.A.) Ltd., One Wilshire Blvd., Los Angeles, CA; St. Paul Fire & Marine Ins. Co. (PB 12/1/70) D 6/8/77	May 18, 1977	June 9, 1977	Los Angeles, CA; \$50,000
R. J. Kunik & Co., Inc., 1 Bala Cynwyd Plaza, Bala Cynwyd, PA; The Aetna Casualty & Surety Co.	May 5, 1977	May 6, 1977	Boston, MA; \$25,000
Lockheed Aircraft Corp. its Divisions & Subsidiaries, 2555 N. Hollywood Way, Burbank, CA; St. Paul Fire & Marine Ins. Co. (PB 8/14/70) D 6/9/77	May 18, 1977	June 10, 1977	Los Angeles, CA; \$50,000
M T S Agencies Inc., 40 Rector St., New York, NY; Federal Ins. Co.	July 8, 1977	July 20, 1977	New York Seaport; \$10,000
McDonnell Douglass Corp., P.O. Box 516, Airport and Brown Roads, St. Louis, MO; Safeco Ins. Co. (PB 9/12/67) D 7/4/77 ⁵	June 1, 1977	July 5, 1977	Los Angeles, CA; \$50,000
Miller Brewing Co., 400 W. State St., Milwaukee, WI; Federal Ins. Co. (PB 10/21/74) D 6/9/77 ⁶	May 23, 1977	June 10, 1977	Los Angeles, CA; \$50,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/ area director; amount
Mutual Wholesale Liquor, Inc. d/b/a Margarita Import Co., 4510 South Boyle St., Los Angeles, CA; Safeco Ins. Co. of America (PB 11/10/75) D 6/9/77 ⁷	May 10, 1977	June 10, 1977	Los Angeles, CA; \$50,000
Nakano Warehouse & Transportation Corp., 18024 South Laurel Park Rd., Compton, CA; St. Paul Fire & Marine Ins. Co. (PB 4/7/75) D 6/9/77	May 23, 1977	June 10, 1977	Los Angeles, CA; \$50,000
Ontario Paper Co., Ltd., Thorold, Ontario, Canada; Fidelity & Deposit Co. (PB 4/5/72) D 6/3/77 ⁸	Apr. 1, 1977	June 3, 1977	Buffalo, NY; \$10,000
Osaka Shosen Mitsui Sempaka Kaisha a/k/a Mitau O.S.K. Lines Ltd., One World Trade Center, Suite 2211, New York, NY; American Motorists Ins. Co. (PB 8/10/65) D 8/24/77 ⁹	Aug. 24, 1977	June 27, 1977	New York Seaport; \$10,000
Rotla Steamship Co., Pier J, Berth 249, Long Beach, CA; St. Paul Fire & Marine Ins. Co. (PB 3/30/73) D 6/9/77 ¹⁰	June 9, 1977	June 10, 1977	Los Angeles, CA; \$50,000
Rolls Royce Inc., 551 Fifth Ave., New York, NY; St. Paul Fire & Marine Ins. Co. (PB 1/4/73) D 6/20/77 ¹¹	June 2, 1977	June 21, 1977	Los Angeles, CA; \$50,000
Singapore Airlines, A Singapore Corp., 510 West Sixth St., Los Angeles, CA; Peerless Ins. Co. D 7/1/77	May 19, 1976	May 20, 1976	Los Angeles, CA; \$10,000
Stanley Stawski Distributing Co., Inc., 1136 North Ashland Ave., Chicago, IL; Peerless Ins. Co.	July 11, 1977	July 13, 1977	Chicago, IL; \$10,000
Sunny Distributors Inc., 8476 Steller Dr., Culver City, CA; Ins. Co. of North America (PB 1/3/74) D 7/20/77 ¹²	June 9, 1977	July 21, 1977	Los Angeles, CA; \$50,000
Trans Freight Lines Inc., One Harmon Plaza, Secaucus, NJ; Ins. Co. of North America (PB 8/9/76) D 7/5/77 ¹³	July 5, 1977	July 28, 1977	New York Seaport; \$10,000
Transmarine Navigation Corp., 1000 Wilshire Blvd., Los Angeles, CA; St. Paul Fire & Marine Ins. Co. (PB 7/11/68) D 6/9/77	June 9, 1977	June 10, 1977	Los Angeles, CA; \$50,000
United Liquor Distributing Co., Inc., 2900 N. Lincoln Ave., Chicago, IL; Peerless Ins. Co.	July 11, 1977	July 15, 1977	Chicago, IL; \$10,000
Unitor Ships Service, 4847 Holmstead Rd., Houston, TX; St. Paul Fire & Marine Ins. Co.	Apr. 21, 1977	Apr. 21, 1977	Houston, TX; \$10,000
Wabash Alloys Inc., 4365 Bradley Rd., Cleveland, OH; Ins. Co. of North America.	Oct. 20, 1976	July 14, 1977	Buffalo, NY; \$10,000

See footnotes at end of table.

Name of principal and surety	Date of Bond	Date of Approval	Filed with district director/area director; amount
Westinghouse Electric Corp., 200 Park Ave., New York, NY; Federal Ins. Co. (PB 5/21/75) D 5/21/77 ¹⁴	May 21, 1977	May 18, 1977	New York Seaport; \$50,000

¹ Surety is Safeco Insurance Co. of America.

² Surety is Seaboard Surety Co.

³ Surety is Peerless Insurance Co.

⁴ Surety is The Continental Ins. Co.

⁵ Surety is St. Paul Fire & Marine Ins. Co.

⁶ Principal is Miller Brewing Co., A WI Corp., Surety is Peerless Ins. Co.

⁷ Principal is Mutual Wholesale Liquor, Inc., A CA Corp.

⁸ Surety is Maryland Casualty Co.

⁹ Surety is St. Paul Fire & Marine Ins. Co.

¹⁰ Principal is Retla of Liberia, Inc. (Liberian Corp.) d/b/a Retla Steamship Co.

¹¹ Principal is Rolls-Royce Aero Engines, Inc. (DE Corp.)

¹² Surety is St. Paul Fire & Marine Ins. Co.

¹³ Surety is American Motorists Ins. Co.

¹⁴ Surety is Peerless Ins. Co.

(BON-3-10)

LEONARD LEHMAN,
*Assistant Commissioner,
Regulations and Rulings.*

(T.D. 78-45)

Cotton Textile Products—Restriction on Entry

Restriction on entry of cotton textile products manufactured or produced in Poland

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., January 31, 1978.

There is published below a directive of November 8, 1977, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in Category 50 manufactured or produced in Poland. This directive further amends, but does not cancel, that Committee's directive of December 29, 1976 (T.D. 77-40).

This directive was published in the FEDERAL REGISTER on November 14, 1977 (42 FR 58969), by the Committee.

(QUO-2-1)

JOHN B. O'LOUGHLIN,
*Director,
Duty Assessment Division.*

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Domestic
and International Business
Washington, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

November 8, 1977.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

This directive further amends, but does not cancel, the directive issued to you on December 29, 1976 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Poland. The directive of December 29, 1976 was previously amended by directive of July 29, 1977.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of November 6, 1975, as amended, between the Governments of the United States and the Polish People's Republic, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed, effective on November 15, 1977 and for the period extending through December 31, 1977, to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of cotton textile products in Category 50, produced or manufactured in Poland.

Cotton textile products in Category 50 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the *FEDERAL REGISTER* on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Polish People's Republic and with respect to imports of cotton textile products from Poland have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commis-

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sioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **FEDERAL REGISTER**.

Sincerely,

ROBERT E. SHEPHERD
*Chairman, Committee for the Implementation
of Textile Agreements, and Deputy Assistant
Secretary for Resources and Trade Assistance*

(T.D. 78-46)

Antiques—Customs Regulations amended

Section 10.53, Customs Regulations, relating to the entry of antiques, amended

DEPARTMENT OF THE TREASURY;
OFFICE OF THE COMMISSIONER OF CUSTOMS;
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

**PART 10 — ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED
RATE, ETC.**

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final Rule.

SUMMARY: Under the Tariff Schedules of the United States, ethnographic objects and other antiques may be imported free of Customs duty. However, an additional duty, besides regular duties which may be applicable, is assessed on ethnographic objects and other antiques imported for sale and later found not to be authentic in respect to the antiquity claimed as a basis for free entry. This rule amends the Customs Regulations to reflect the current rate of this additional duty.

EFFECTIVE DATE: February 6, 1978!

FOR FURTHER INFORMATION CONTACT:

Thomas J. Lindmeier, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5727).

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SUPPLEMENTARY INFORMATION:

BACKGROUND

Ethnographic objects (objects relating to a specific culture made in traditional aboriginal styles at least 50 years before entry and other antiques made prior to 100 years before entry generally may be imported into the United States free of Customs duties under item 766.20 or item 766.25, Tariff Schedules of the United States (TSUS). However, if the importer of an ethnographic object or other antique imported for sale claims free entry under item 766.20 or item 766.25, TSUS, and the article later is found not to be an authentic antique, the article is subject to a special duty under item 766.30, TSUS, in addition to any other duty imposed by the TSUS. The purpose of this additional duty is to deter false claims for free entry.

Before the modifications of certain duty rates by Presidential Proclamation No. 3822, published in the *FEDERAL REGISTER* on December 16, 1967 (32 FR 19002), as a result of the Kennedy Round of tariff negotiations, the rate of additional duty assessed under item 766.30, TSUS, was 25 percent ad valorem (that is, 25 percent of the dutiable value) regardless of the country from which imported. Paragraphs (h) and (i) of sections 10.53 of the Customs Regulations (19 CFR 10.53 (h) and (i)) and footnote 50 to Part 10 (footnote 50 to 19 CFR Part 10) reflect this rate. However, Presidential Proclamation No. 3822 modified this rate by stages so that, effective January 1, 1972, the additional rate assessed under item 766.30, TSUS, is 12.5 percent ad valorem for articles imported from all countries other than the Communist countries listed in General Headnote 3(e), TSUS. The additional rate under item 766.30, TSUS, for articles from Communist countries remains 25 percent ad valorem.

It is necessary, therefore, to amend paragraphs (h) and (i) of section 10.53 footnote 50 to Part 10 to reflect the modification of the rate applicable to countries other than Communist countries from 25 percent to 12.5 percent ad valorem.

Because these amendments merely conform the Customs Regulations to the current additional column 1 rate of duty under item 766.30, TSUS, notice and public procedure thereon are unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Norman W. King, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development, both on matters of substance and style.

THE HISTORY OF THE UNITED STATES

by [illegible]

The history of the United States is a story of growth and change. It begins with the first settlers who came to the continent, and it ends with the present day. The story is full of challenges and triumphs, and it is a story that we can all learn from. The United States has been a land of opportunity and freedom, and it has been a land where people have come from all over the world to build a better life. The history of the United States is a story of the American dream, and it is a story that we can all be proud of.

The United States has a long and rich history, and it has been a land of many firsts. It was the first country to be founded on the principles of democracy and freedom, and it was the first country to have a written constitution. The United States has been a land of innovation and progress, and it has been a land where people have come from all over the world to build a better life. The history of the United States is a story of the American dream, and it is a story that we can all be proud of.

The United States has been a land of many challenges, but it has always overcome them. It has been a land of many wars, but it has always emerged stronger and more united. The United States has been a land of many difficulties, but it has always found a way to overcome them. The history of the United States is a story of the American dream, and it is a story that we can all be proud of.

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AMENDMENTS TO THE REGULATIONS

Paragraphs (h) and (i) of section 10.53 and footnote 50 to Part 10 of the Customs Regulations (19 CFR 10.53 (h), (i); and footnote 50 to 19 CFR Part 10) are amended as follows:

§ 10.53 Antiques.

Paragraphs (h) and (i) of section 10.53 are amended by substituting "12.5 percent or 25 percent, as appropriate" for "25 percent".

Footnote 50 to Part 10 is amended to read as follows:

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)) (ADM-9-03)

G. R. DICKERSON,

Acting Commissioner of Customs.

Approved January 25, 1978:

BETTE B. ANDERSON,

Under Secretary of the Treasury.

[Published in the FEDERAL REGISTER February 6, 1978 (43 FR 4855)]

⁴⁰ "Any article imported for sale and claimed to be classifiable under item 766.20 or item 766.25, and thereafter determined to be not authentic in respect to the antiquity claimed as a basis for classification thereunder * * * a [column 1] duty of 12.5% ad val. * * * [or] a [column 2] duty of 25% ad val. in addition to any other duty imposed on such article under these schedules." (Item 766.30, Tariff Schedules of the United States)

Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza
New York, N.Y. 10007

Chief Judge
Edward D. Re

Judges

Paul P. Rao
Morgan Ford
Scovel Richardson
Frederick Landis

James L. Watson
Herbert N. Maletz
Bernard Newman
Nils A. Boe

Senior Judge

Samuel M. Rosenstein

Clerk
Joseph E. Lombardi

Customs Decisions

(C.D. 4729)

PHOSTOXIN SALES, INC. *v.* UNITED STATES

Chemicals

AMMONIUM CARBAMATE—METALLIC SALT—INORGANIC COMPOUND

A pesticide, called Phostoxin, composed of aluminum phosphide and oxide, ammonium carbamate, and paraffin, and exported from West Germany and classified in liquidation upon entry at Los Angeles, Calif. under TSUS item 432.00/425.52 as modified by T.D. 68-9 as a mixture not specially provided for at the rate of 1.5 cents per pound plus 7.5 *per centum ad valorem* on the basis of its ammonium carbamate component, *Held*, dutiable under item 432.00 as a mixture not specially provided for at the rate of 5 *per centum ad valorem* on the basis of the ammonium carbamate component, if imported separately, being classified under the provision

for ammonium carbonate and bicarbonate in TSUS item 417.24 (1) in view of legislative history of the compound ammonium carbamate being known only to Congress as a component of commercial ammonium carbonate, (2) expert testimony that ammonium carbamate cannot be made without the presence of ammonium carbonate and that it is always, simultaneously, a mixture of the two compounds, and (3) the likelihood of reliance by the framers of the TSUS upon the Brussels Nomenclature, among others, who expressly associate the compound ammonium carbamate with the metallic carbonates, ammonium carbonate and bicarbonate, as inorganic chemical compounds.

Court No. 76-1-00058

Port of Los Angeles

[Judgment for plaintiff.]

(Decided January 16, 1978)

Glad, Tuttle & White (Edward N. Glad of counsel) for the plaintiff.

Barbara Allen Babcock (Alan L. Langus and Herbert P. Larsen, trial attorneys),
for the defendant.

RICHARDSON, Judge: The merchandise in this action is a toxic pesticide in pellet form, called Phostoxin, which is composed of a mixture of aluminum phosphide, traces of aluminum oxide, ammonium carbamate, and hard paraffin. The pesticide was exported from West Germany in February, 1975, and classified in liquidation upon entry at Los Angeles, California, under TSUS item 432.00 as modified by T.D. 68-9 as a mixture not specially provided for, and, in accordance with item 432.00,¹ assessed for duty under TSUS item 425.52 as modified by T.D. 68-9 at the rate of 1.5 cents per pound plus 7.5 *per centum ad valorem* on the basis of the ammonium carbamate being treated as other nitrogenous compounds if imported separately.

The importer claims that the pesticide is properly classifiable under TSUS item 423.96 as modified by T.D. 68-9 as a mixture of two or more inorganic compounds, other, at the duty rate of 5 *per centum ad valorem*, or in the alternative, if properly classified under item 432.00, is dutiable under TSUS item 417.44 as modified by T.D. 68-9 at the same rate on the basis of the ammonium carbamate being treated as other ammonium compounds if imported separately. The importer further claims that in the event the court determines that the ammonium carbamate component of the pesticide is an *organic* chemical compound, then the pesticide is dutiable under TSUS item 425.22 as modified by T.D. 68-9 at the duty rate of 5 *per centum*

¹ Item 432.00 classification provides for duty assessment at the rate of 5% ad val. but not less than the highest rate applicable to any component material.

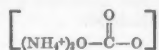
ad valorem on the basis of the ammonium carbamate being treated as an acyclic amide if imported separately.

In the pleadings before the court it is admitted that the aluminum phosphide and oxide components of the pesticide are *inorganic* chemical compounds, and that the cation constituent of the ammonium carbamate component is an ammonium ion. In issue under the pleadings is the allegation that the ammonium carbamate component is an *inorganic* chemical compound. However, at the trial it was conceded by plaintiff's counsel that the paraffin component of the pesticide is an *organic* chemical compound. Consequently, irrespective of the court's determination as to the chemical nature of the ammonium carbamate component, it is clear at the outset that the imported pesticide is not composed entirely of *inorganic* chemical compounds, and as such, was properly classified under item 432.00 as a mixture not specially provided for.

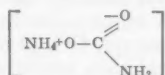
The question for determination by the court then is one relating to rate of duty [rather than to classification], the ascertainment of which turns upon the chemical nature of the disputed compound ammonium carbamate. Is ammonium carbamate an *inorganic* chemical compound as primarily claimed, or an *organic* chemical compound as classified? For tariff purposes *inorganic* compounds (including salts) are compounds not containing carbon, except carbides and such carbon-containing compounds as inorganic cyanides and cyanates, metallic carbonates, and oxides of carbon which are inorganic in nature, while *organic* compounds are compounds containing carbon except such carbon-containing compounds as carbides, inorganic cyanides and cyanates, metallic carbonates, and oxides of carbon. TSUS, Schedule 4, Part 2 headnotes 2 and 3.

The court is of the opinion that ammonium carbamate is an *inorganic* chemical compound which Congress intended should be classified under the provision for the metallic carbonates, ammonium carbonate and bicarbonate, in TSUS item 417.24 which, at the time of exportation of the subject merchandise, carried a modified specific duty at the rate of 0.25 cent per pound.

Dr. W. Conard Fernelius, Distinguished Professor Emeritus at the University of South Florida, who, among other things, has taught chemistry at American universities for over 35 years and whose familiarity with the compound ammonium carbamate dates back to 1926 and antedates that of any of the other four chemists who testified in the case, explained the difference between the carbonate and carbamate compounds. He testified that ammonium carbonate



contains the carbonate ion, CO_3 and the ammonium ions to balance the charge. He said that the ammonium carbamate



has a negative ion of two oxygens, one carbon, one nitrogen, and two hydrogens, and that as this is a single negative charge, only one ammonium ion is required to balance the charge. Dr. Fernelius testified that in terms of environment around the carbon, ammonium carbonate differs from ammonium carbamate by the former having three oxygens whereas the latter has two oxygens and a nitrogen. But more significantly, the witness stated that ammonium carbamate cannot be made without the presence of ammonium carbonate. He said it is always, simultaneously, a mixture of the two compounds (R. 170).

In 1921 the tariff commission mentioned the compound ammonium carbamate in the context of its report to the Senate Committee on Finance on the compound *ammonium carbonate*, then provided for in paragraph 7 of the House passed tariff bill H.R. 7456.² Under the heading AMMONIUM CARBONATE the tariff commission report stated:

Description. . . .—Commercial ammonium carbonate, a mixture of ammonium carbonate and ammonium carbamate containing about 31 per cent of ammonia (NH_3), is a white crystalline salt smelling strongly of ammonia, volatile when heated, and sometimes known as sal volatile. . . .

Production.—It is made by heating a mixture of ammonium sulphate and chalk (calcium carbonate). The vapors of ammonia, carbon dioxide, and water, on cooling, condense to form the solid mixture of ammonium carbonate and ammonium carbamate. The crude product is usually purified by sublimation. *The domestic output is unknown.* [Emphasis added.]

Contemporary lexicons defined the term *ammonium carbonate* as applying to "The commercial article called *sal volatile* . . . a mixture of hydrogen-ammonium carbonate and ammonium carbamate" [*The Century Dictionary*, 1913 edition, Vol. 1, p. 177]; and "The commercial product sold under this name [which] consists of a mixture of ammonium bicarbonate NH_4HCO_3 with ammonium carbamate $\text{NH}_2\text{CO}\cdot\text{ONH}_4$, and contains about 31 p.c. of ammonia and 56 p.c. of carbon dioxide. . . ." [*A Dictionary of Applied Chemistry*, Thorpe, revised edition 1918, Vol. 1, p. 151]. That the commercial product was considered the preferred form of ammonium carbonate is indi-

² H. R. 7456 was subsequently enacted into law as the Tariff Act of 1922. Paragraph 7 of that act, which was amended in the Senate, contained a provision for *ammonium carbonate* and *bicarbonate*. The same provision was reenacted as paragraph 7 of the 1930 Tariff Act, the predecessor of item 417.24 which carries the same language.

cated in an even earlier lexicon. Under the heading COMMERCIAL AMMONIUM CARBONATE Thorpe stated:

The usual process for making ammonium carbonate does not appear quite rational, since according to the conditions of the process there is only enough CO_2 (3 molecules CO_2 to 4 molecules NH_3) to form a neutral salt, whilst commercial ammonium carbonate corresponds to $1\frac{1}{2}$ times as much CO_2 Hence a large quantity of ammonia must go away in the uncombined state unless carbon dioxide in excess is passed into the condensing chambers. At Kunheim's works (near Berlin) the gaseous mixture from the distillation of gas-liquor is directly brought together with CO_2 in lead chambers, and thus the commercial salt is produced. . . . [A Dictionary of Applied Chemistry, Thorpe, 1898, Vol. 1, p. 101.]

Thus, given an awareness on the part of Congress of the presence of ammonium carbamate only as an ingredient of commercial ammonium carbonate, Congress, in providing for chemical compounds, must have had in mind chemical compounds commercially salable as such. *United States v. Betz*, 30 CCPA 16, 22, C.A.D. 208 (1942). Consequently, it is reasonable to conclude that Congress considered that the compound ammonium carbamate would be covered in the provision for the ammonium carbonates since, as the uncontroverted testimony of the witness Fernelius reveals, the disputed compound does not exist independently of the carbonate compounds, i.e., if imported at all it would come in in the form of commercial ammonium carbonate.

Having concluded that Congress intended ammonium carbamate to be included in any classification scheme for ammonium carbonates under the 1930 and prior tariff acts, it follows that when Congress subsequently designated ammonium carbonates as *inorganic* chemical compounds under the Tariff Schedules it intended the same designation to apply to ammonium carbamate. That this is the case is reflected in the fact that Congress did not intend any significant changes beyond a "reorganization of existing provisions" to be made in the classification of *inorganic* chemical compounds under the Tariff Schedules. *Tariff Classification Study*, Schedule 4, p. 56. Any other view on the part of the Congress concerning the nature of chemical compounds would have compelled that body to make specific provision for the long known ammonium carbamate compound consistent with its general intention to make specific provision in the Tariff Schedules for known commercial commodities. *Tariff Classification Study, Submitting Report*, p. 16.

Moreover, reference sources which are said to have "exerted the greatest influence on the arrangement of the proposed revised schedules", namely, the Standard Industrial Classification Manual and the

Brussels Nomenclature, place ammonium compounds in general and ammonium carbamate in particular in the categories of inorganic chemical compounds and carbonates, respectively. *Tariff Classification Study, Submitting Report*, p. 8; *Standard Industrial Classification Manual*, Industry No. 2819, pp. 77, 299; *Explanatory Notes to the Brussels Nomenclature* (1955) p. 201, Heading 2842. Thus, under subchapter V entitled Metallic Salts . . . of Inorganic Acids of the Brussels Nomenclature, whose division of chemical compounds is not unlike our own. Heading 28.42 provides for: CARBONATES . . . INCLUDING COMMERCIAL AMMONIUM CARBONATE CONTAINING AMMONIUM CARBAMATE.

In the light of the legislative history of the tariff provision for ammonium carbonate and bicarbonate and the testimony of the witness Fernelius, among others, the conclusion is inescapable that ammonium carbamate is an *inorganic* chemical compound classifiable under the provision for ammonium carbonates in item 417.24. And since the modified specific duty provided for in item 417.24 is less than the *ad valorem* rate of duty provided for in item 432.00, the latter duty rate must prevail, and the court so holds. For the reasons stated the imported pesticide, Phostoxin, is dutiable under the provision for ammonium carbonate and bicarbonate in item 417.24 at the rate of 5 *per centum ad valorem* in accordance with item 432.00.

Judgment will be entered herein accordingly.

(C.D. 4730)

BAR & BARBEQUE PRODUCTS, INC. v. UNITED STATES

*Motion for Summary Judgment
and
Cross-Motion To Dismiss*

Court No. 75-4-00845

Port of Los Angeles

[Judgment for plaintiff.]

(Decided January 16, 1978)

Glad, Tuttle & White (T. Randolph Ferguson of counsel) for the plaintiff.

Barbara Allen Babcock, Assistant Attorney General (*Sidney H. Kuflik*, trial attorney), for the defendant.

BOE, Judge: Before the court for determination are plaintiff's motion for summary judgment and defendant's cross-motion to dis-

miss on the jurisdictional ground that the plaintiff was not the proper party to file the protest.¹

The controversy underlying this action concerns the proper classification of battery-operated slot machines. The articles were classified under item 737.40, TSUS, as modified by Presidential Proclamation 3822, T.D. 68-9, with duty at the rate of 17.5% ad valorem. Plaintiff claims that the merchandise is properly classifiable under item 734.20, TSUS, as modified, with a 5.5% ad valorem rate of duty. In its answer to the plaintiff's complaint, the defendant admits that the merchandise had been improperly classified, and consents to the entry of judgment sustaining the plaintiff's claimed classification under item 734.20, TSUS, as modified. Subsequently and in response to plaintiff's initial motion for judgment on the pleadings, the defendant filed its cross-motion to dismiss. Thus, the sole issue presented herein is whether the plaintiff has standing under 19 U.S.C. § 1514(b)(1) to file a protest and is the proper party to prosecute this action.

At the time of the entry of the merchandise involved in this case, James G. Wiley Co. (Wiley), a customhouse broker, was listed on the consumption entry as the importer of record and the nominal consignee. The entry was made for the account of the plaintiff and, on the entry form, the plaintiff was declared to be the actual owner of the merchandise. Following liquidation, the plaintiff, not Wiley, filed the administrative protest objecting to the classification made by the Customs Service. The defendant acknowledges that the plaintiff is the actual owner and ultimate consignee of the merchandise in question. It does not allege in its motion to dismiss that it has been misled in any manner by the filing of the instant protest. The defendant's sole contention is that as the owner of imported merchandise the plaintiff is not among those persons authorized to file the protest under 19 U.S.C. § 1514(b)(1) which provides in part:

* * * protests may be filed by the importer, consignee, or any authorized agent of the person paying any charge or exaction * * *.

The defendant in urging its motion to dismiss ignores recent decisions which clearly demonstrate that the plaintiff has standing to file the instant protest. See *Pasco Terminals, Inc. v. United States*, 65 CCPA—, C.A.D. 1201 (decided December 15, 1977); *United States v. Wedemann & Godknecht, Inc. a/c Atwater Throwing Co.*, 62 CCPA 86, C.A.D. 1151, 515 F. 2d 1145 (1975); *Mohawk Recreation Products, Inc. v. United States*, 77 Cust. Ct. 180, C.R.D. 76-13 (1976); *Hancock*

¹ Plaintiff's initial motion sought judgment on the pleadings under rule 4.9. However, both parties have presented to the court for its consideration matters outside of the pleadings in the nature of affidavits. Accordingly, pursuant to rule 4.9, plaintiff's original motion shall be treated as one for summary judgment under rule 8.2.

Gross Mfg., Inc. v. United States, 75 Cust. Ct. 188, C.R.D. 75-6, 400 F. Supp. 813 (1975); *Baylis Brothers Co., etc. v. United States*, 75 Cust. Ct. 89, C.D. 4611, 400 F. Supp. 940 (1975). The rationale in these cases indicate that one in the position of the instant plaintiff has the standing to file an administrative protest as the "agent of the person paying [the] * * * charge or exaction," that is, the importer of record or nominal consignee.²

The statement contained in *United States v. Wedemann & Godknecht, Inc.*, *supra*, pertaining to the relationship of the appellee therein (a customhouse broker) to an associate employed to enter merchandise and pay duty thereon at the outports (Allen Forwarding Co.), indeed, more than serves as judicial approbation of the plaintiff's act in filing the protest in the instant action:

* * * While there is no evidence of specific appointment of Wedemann & Godknecht, Inc., to act as agent of Allen Forwarding Co. in filing protests, it would have been a work of supererogation to have made such an appointment in view of the relationship of these customs brokers to each other and to the business of Farbenfabriken Bayer and its domestic customers. Those relationships were such as to reduce to an absurdity the strange statement in the Government's brief that "Wedemann & Godknecht Inc. was a stranger to the entry transaction * * *." On the contrary, the facts demonstrate that Wedemann & Godknecht, Inc., was in the driver's seat throughout, selecting out-port brokers to represent it and its client, employing lawyers to file protests as necessary, and generally looking after the customs business of FFB. Allen Forwarding Co. did not have to appoint it to file protests as its agent because Wedemann & Godknecht, Inc., was making the decisions and when it filed the protests on the Philadelphia importations it must have done so as the agent of "the person paying such charge." Although it did so without specific request or appointment, we think the "ratification" by Allen Forwarding Co. cleared up that question, both confirming the agency relationship within the meaning of section 514 and adopting the action taken as its own. [62 CCPA at 91.]³

It would appear unnecessary, however, to base this decision solely upon the tenuous and circuitous reasoning that the plaintiff acted as Wiley's agent in filing the protest. The Plaintiff is the acknowledged owner of the imported merchandise. As owner, the plaintiff hired Wiley to facilitate the entry process but, nevertheless, retained ultimate control over the filing of protests to contest the amount of the duties assessed since it (plaintiff) was the party which ultimately

² Paragraph nine of the affidavit of William R. Fielding, vice-president of James G. Wiley Co., states that the plaintiff "has acted as agent for James G. Wiley Co. in filing protests or having had filed protests on its behalf pursuant to Section 514 of the Tariff Act of 1930, as amended."

³ The affidavit of William R. Fielding, vice-president of the James G. Wiley Co., clearly states that Wiley subsequently ratified the action of the plaintiff in filing this protest.

paid the duty by reimbursing Wiley.⁴ We are unaware of any decision of this court or our appellate court which has barred the owner of imported merchandise from filing a protest. Indeed, no reasonable interpretation of section 1514(b)(1) would lead to the conclusion that the Congress intended to prohibit a *bona fide* owner of imported property from personally protecting or enforcing his proprietary interests in a court of the United States, merely because he may have elected to appoint an agent in the form of a customs broker to assist in the administrative requirements incident to the importation of the merchandise. Particularly is this true, where, as it appears in the instant action, the government, from the time of the entry of the merchandise in question, has been aware of the true identity of the owner and ultimate consignee thereof. No failure to disclose, covert or otherwise, has caused the government to sustain any unwarranted administrative burden.

Although customs law by reason of its specialized nature at times may require a "singular" construction and interpretation, the basic principles of the law of agency, contracts and property, upon which the fundamental rights of an individual are so often predicated, can neither be overlooked, lightly dismissed nor declared inapplicable. Thus, in view of the fact that the plaintiff fully reimbursed Wiley for all the duties paid, this court is of the opinion that the plaintiff may be considered to be "the person paying any charge or exaction" within the meaning of 19 U.S.C. 1514(b)(1).

In a decision relating to the interpretation of section 1514(b)(1) and the persons having standing thereunder, the United States Court of Appeals, Second Circuit, in the case of *Patchogue-Plymouth Mills Corporation v. Durning*, 101 F. 2d 41 (1939), and appropriately referred to by Judge Miller in his concurring opinion in the *Wedemann* case, points out the absurdity in failing to recognize the applicability of the law of agency relating to the principal and his agent. In so doing, the court stated:

* * * To be sure the statute speaks of the agent of the person paying such charge but that includes the principal for otherwise substance would be subordinated to mere language and the absurd result would be reached that an agent would be given power to file a protest for a principal who, not being empowered to file one himself, could have no authority to authorize an agent to do it. Besides that, this plaintiff is a corporation which had to act by its agents. [101 F. 2d at 43.]

⁴ See Fielding Affidavit, ¶7.

The plaintiff as owner of the merchandise in question not having been precluded by section 1514(b)(1) from filing the protest and from instituting the within action, the motion of the plaintiff for summary judgment, accordingly, is hereby granted and the motion of the defendant to dismiss for lack of jurisdiction is hereby denied.

Let judgment be entered accordingly.

Decisions of the United States Customs Court

Abstracts *Abstracted Protest Decisions*

DEPARTMENT OF THE TREASURY, *January 23, 1978.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

ROBERT E. CHASEN,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED		HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Per. or Item No. and Rate	Per. or Item No. and Rate			
P78/7	Watson, J. January 17, 1978	Hub Floral Corp.	74-8-02186	Item 748.21 42.5%	Item 642.97 15%, 13.5%, 11%, 9.5%, 8.5%		Hub Floral Corporation v. U.S. (C.D. 4669)	Boston Wire covered with textile material (chenille stems)

Decisions of the United States Customs Court

Abstracts Abstracted Reappraisal Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R78/16	Watson, J. January 17, 1978	Gelgy Chemical Corporation	R67/19089, etc.	United States value	U.S. selling prices, less 1% cash discount as determined by cus- toms officer at time of appraisement; less 38.7% representing profit and general ex- penses usually made in U.S. on sales of dye- stuffs of same class or kind; less costs of transportation and insurance from place of shipment to place of delivery in amounts determined by cus- toms officer at time of appraisement; di- vided by 1.40 or such other factor applied by customs officer, to allow for customs duties payable on im- ported dyestuffs	U.S. v. Gelgy Chemical Corporation et al. (C.A.D. 1155)	New York Benzenoid dyestuffs

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R78/17	Rao, J. January 18, 1978	Patrick & Graves, Inc.	R66/2317, etc.	Cost of production	At values specified in column designated "Claimed Value" on schedule attached to decision and judgment	U.S. v. F & D Trading Corp. (C.A.D. 1989)	Houston Volkswagen automobiles
R78/18	Rao, J. January 18, 1978	Patrick & Graves	R66/1984, etc.	Cost of production	At values specified in column designated "Claimed Value" on schedule attached to decision and judgment	U.S. v. F & D Trading Corp. (C.A.D. 1989)	Houston Volkswagen automobiles
R78/19	Rao, J. January 18, 1978	Patrick & Graves	R66/1935, etc.	Cost of production	At values specified in column designated "Claimed Value" on schedule attached to decision and judgment	U.S. v. F & D Trading Corp. (C.A.D. 1989)	Houston Volkswagen automobiles

Rehearing Motion Filed

JANUARY 6, 1978

Amico, Inc. v. United States, Court No. 73-11-03155.—CROSS-
MOTIONS FOR SUMMARY JUDGMENT.—C.D. 4723. Motion by
plaintiff.

Index

U.S. Customs Service

	T. D. No.
Antiques; entry, additional duty; sec. 10.53, C.R., amended.....	78-46
Bonds:	
Carrier; CF 3587.....	78-43
Instruments of international traffic; CF 7587.....	78-44
Cotton textiles; restriction on entry; Poland.....	78-45
Cotton and man-made fiber textiles; restriction on entry; Haiti.....	78-40
C.D. 4687, Westminster Corp. v. United States, limited.....	78-37
Foreign currencies; daily rates for Hong Kong dollar, Iran rial, People's Republic of China yuan, Philippines peso, Singapore dollar, Thailand baht (tical); January 9-13, 1978.....	78-35
Inspection, Search, and Seizure:	
Filing of petitions for relief; sec. 162.32, C.R., amended.....	78-36
Fines, penalties, and forfeitures; prepenalty notices; sec. 162.31 and 171.1, C.R., amended.....	78-38
Man-made fiber textiles; restriction on entry; Philippines.....	78-39, 41
Reimbursable services; excess cost of preclearance operations; pay period beginning February 26, 1978.....	78-42

Customs Court

Ammonium:

- Carbamate; mixture, not specially provided for, C.D. 4729
- Carbonate, C.D. 4729

Battery-operated slot machines, C.D. 4730

Chemical compound; inorganic chemical compound, C.D. 4729

Construction:

Rules of the U.S. Customs Court:

 Rule 4.9, C.D. 4730

 Rule 8.2, C.D. 4730

 Tariff Act of 1922, par. 7, C.D. 4729

Tariff Act of 1930:

 Par. 7, C.D. 4729

 Sec. 514, C.D. 4730

Construction—Continued

Tariff Schedules of the United States:

Item 417.24, C.D. 4729

Item 417.44, C.D. 4729

Item 423.96, C.D. 4729

Item 425.22, C.D. 4729

Item 425.52, C.D. 4729

Item 432.00, C.D. 4729

Item 439.96, C.D. 4729

Item 734.20, C.D. 4730

Item 737.40, C.D. 4730

Schedule 4, part 2, headnotes 2 and 3, C.D. 4729

U.S. Code, title 19, sec. 1514(b)(1), C.D. 4730

Cross-motion to dismiss; motion for summary judgment, C.D. 4730

Definitions:

Inorganic compounds, C.D. 4729

Organic compounds, C.D. 4729

Inorganic chemical compound; chemical compound, C.D. 4729

Jurisdiction of court:

Proper party to action, C.D. 4730

Protest, authority of plaintiff to file, C.D. 4730

Legislative history:

Explanatory Notes to the Brussels Nomenclature, 1955, vol. I, p. 201, C.D. 4729

Standard Industrial Classification Manual, Industry No. 2819, pp. 77, 299, C.D. 4729

Summary of Tariff Information, 1921 (H.R. 7456), p. 37, C.D. 4729

Tariff Classification Study, 1960:

Explanatory and Background Materials, schedule 4, p. 56, C.D. 4729

Submitting Report, pp. 8, 16, C.D. 4729

Lexicographic source:

A Dictionary of Applied Chemistry, Thorpe, rev. ed. 1918, Vol. 1, p. 151, C.D. 4729*The Century Dictionary*, 1913 ed., Vol. 1, p. 177, C.D. 4729

Metallic salt, C.D. 4729

Mixture, not specially provided for; ammonium carbamate, C.D. 4729

Motion for summary judgment; cross-motion to dismiss, C.D. 4730

Proper party to action; jurisdiction of court, C.D. 4730

Protest, authority of plaintiff to file; jurisdiction of court, C.D. 4730

Rehearing applied for (p. 51): cross motions for summary judgment

Summary judgment, motion for, C.D. 4730

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Inorganic compounds, C.D. 4729

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